

CLERK, U.S. BANKRUPTCY COURT  
NORTHERN DISTRICT OF TEXAS**ENTERED**THE DATE OF ENTRY IS ON  
THE COURT'S DOCKET**The following constitutes the ruling of the court and has the force and effect therein described.****Signed December 7, 2021**


Stacy G. L. James  
**United States Bankruptcy Judge**

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

In re:  HIGHLAND CAPITAL MANAGEMENT, L.P. <sup>1</sup>  Reorganized Debtor.	Case No. 19-34054-sgj11  Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P., Plaintiff.  v.  JAMES D. DONDERO, NANCY DONDERO, AND THE DUGABOY INVESTMENT TRUST, Defendants.	Adversary No. 21-03003-sgj
HIGHLAND CAPITAL MANAGEMENT, L.P., Plaintiff.  v.  NEXPPOINT ADVISORS, L.P., JAMES DONDERO, NANCY DONDERO, AND THE DUGABOY INVESTMENT TRUST, Defendants.	Adversary No.: 21-03005-sgj

<sup>1</sup> The Debtor's last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Debtor is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

<p>HIGHLAND CAPITAL MANAGEMENT, L.P., Plaintiff.</p> <p>v.</p> <p>HIGHLAND CAPITAL MANAGEMENT SERVICES, INC., JAMES DONDERO, NANCY DONDERO, AND THE DUGABOY INVESTMENT TRUST,</p> <p>Defendants.</p>	<p>Adversary No.: 21-03006-sgj</p>
<p>HIGHLAND CAPITAL MANAGEMENT, L.P., Plaintiff.</p> <p>v.</p> <p>HCRE PARTNERS, LLC (n/k/a NEXPOINT REAL ESTATE PARTNERS, LLC), JAMES DONDERO, NANCY DONDERO AND THE DUGABOY INVESTMENT TRUST,</p> <p>Defendants.</p>	<p>Adversary No.: 21-03007-sgj</p>

## ORDER

In Adversary Proceeding Nos. 21-3003, 21-3005, 21-3006, and 21-3007 (collectively, the “**Note Adversary Proceedings**”), before the Court are a set of virtually identical motions [Doc. 82, 68, 72, and 67, respectfully, in each sequentially-numbered Note Adversary Proceeding<sup>2</sup>] (the “**Rule 12(b)(6) Motions**”) seeking to dismiss Counts V, VI, and VII of the Amended Complaints. On November 9, 2021, the Court held a hearing (the “**Hearing**”) in connection with the Rule 12(b)(6) Motions, filed by the certain of the defendants in the Note Adversary Proceedings (the “**Note Duty Defendants**”). Plaintiff Highland Capital Management L.P., now a reorganized debtor (“**Highland**” or “**Reorganized Debtor**”) timely filed objections to the Rule 12(b)(6) Motions [Doc. 90, 74, 79, and 74] and the Note Obligor Defendants filed replies [Doc. 108, 89, 94, and 89].<sup>3</sup>

With regard to the Note Duty Defendants’ Rule 12(b)(6) Motions, the Court must consider the motions while accepting every allegation in the Amended Complaints as true. Doing so, the Court rules that the Plaintiff has articulated plausible claims and has stated claims on which relief could be granted. “The court is not required to state findings or conclusions when ruling on a motion under Rule 12 ....” Fed. R. Civ. Proc. 52(a)(3), applicable to the Note Adversary

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<sup>2</sup> All subsequent “Doc.” references in this Order follow this convention.

<sup>3</sup> The Court considered these replies despite the lateness of their filing, less than two business days before the Hearing. At the Hearing, Highland noted its displeasure with the Note Obligor Defendants’ having filed their replies 37 days after Highland filed its objections but did expressly did not ask the court to strike the replies. The Court reminds the Note Obligor Defendants, as Highland correctly pointed out, that the Local Civil Rules for the Northern District of Texas, and not the Local Bankruptcy Rules, apply to these adversary proceedings in all respects, since the reference to the Bankruptcy Court was withdrawn and this Court is conducting all proceedings in the position of a magistrate judge for the District Court. The replies here were required to be filed no later than 14 days following the filing of Highland’s objections. See Local Civil Rule 7.1(f).

Proceedings under Fed. R. Bankr. Proc. 7052. Accordingly, the Court makes no findings of fact or conclusions of law in denying the Rule 12(b)(6) Motions.

For the reasons stated above, the Rule 12(b)(6) Motions are DENIED.

\* \* \* *END OF ORDER* \* \* \*

United States Bankruptcy Court  
Northern District of Texas

Highland Capital Management, L.P.,

Plaintiff

Highland Capital Management Services, In,

Defendant

Adv. Proc. No. 21-03006-sgj

## CERTIFICATE OF NOTICE

District/off: 0539-3

User: admin

Page 1 of 2

Date Rcvd: Dec 07, 2021

Form ID: pdf001

Total Noticed: 1

The following symbols are used throughout this certificate:

**Symbol**

**Definition**

- + Addresses marked '+' were corrected by inserting the ZIP, adding the last four digits to complete the zip +4, or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.

**Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Dec 09, 2021:**

NONE

**Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.**

Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI). Electronic transmission is in Eastern Standard Time.

<b>Recip ID</b>	<b>Notice Type: Email Address</b>	<b>Date/Time</b>	<b>Recipient Name and Address</b>
ust	+ Email/Text: ustregion06.da.ecf@usdoj.gov	Dec 07 2021 21:20:00	United States Trustee, 1100 Commerce Street, Room 976, Dallas, TX 75242-0996

TOTAL: 1

## BYPASSED RECIPIENTS

The following addresses were not sent this bankruptcy notice due to an undeliverable address, \*duplicate of an address listed above, \*P duplicate of a preferred address, or ## out of date forwarding orders with USPS.

NONE

## NOTICE CERTIFICATION

**I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.**

**Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.**

Date: Dec 09, 2021

Signature: /s/Joseph Speetjens

## CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on December 7, 2021 at the address(es) listed below:

**Name**                    **Email Address**

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Total Noticed: 1

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